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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. CR 08-0237 MHP
)	
Plaintiff,)	
)	STIPULATION AND PROPOSED
v.)	ORDER SETTING DATES AND
)	DOCUMENTING EXCLUSION OF
DAVID NOSAL,)	TIME
)	
Defendant.)	

With the agreement of the parties in open court on November 17, 2008, the Court enters this order (1) setting a briefing schedule with respect to any pre-trial motions to be filed by the defendant David Nosal and (2) documenting the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161, from November 17, 2008, to January 12, 2009. The parties stipulate, and the Court finds and holds, as follows:

1. The parties appeared before the Court on November 17, 2008, for a hearing on the defendant's motion to recuse government counsel and to dismiss the indictment. At the conclusion of the November 17, 2008, hearing, the Court set the following briefing schedule and a motions hearing date for any remaining pre-trial motions to be filed by the defendant Nosal.

Defendant's filings due: January 12, 2009

Government's response due: February 2, 2009

Defendant's reply due: February 9, 2009

Motion hearing: February 17, 2009

2. Counsel for the defendant indicated that he had been occupied in trial and preparing for trial in another case during several weeks in September and October 2008. Based on the complexity of the instant case, and based on defense counsel's unavailability due to the other case, defense counsel stated that he needed until at least January 12, 2009, to effectively prepare any pre-trial motions that he may file.

3. Based on the facts set out above and on the record in open court, the parties agree, and the Court so finds, that taking into the account the public interest in the prompt disposition of criminal cases, granting a continuance until January 12, 2009, for the defendant to file pretrial motions is necessary based on the complexity of this case and on the need for effective preparation of defense counsel. See 18 U.S.C. § 3161(h)(8)(B)(ii) & (iv). Given these circumstances, the Court finds that the ends of justice served by excluding the period from November 17, 2008, to January 12, 2009, outweigh the best interest of the public and the defendant in a speedy trial. Id. § 3161(h)(8)(A).

4. Accordingly, and with the consent of the defendant David Nosal, the Court (1) sets the briefing schedule set out in ¶ 1 above with respect to the defendant

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Nosal's pre-trial motions and (2) orders that the period from November 17, 2008, to January 12, 2009, be excluded from Speedy Trial Act calculations under 18 U.S.C. § 3161(h)(8)(ii) and (iv).

SO STIPULATED.

DATED: December 1, 2008

SCOTT N. SCHOOLS
Associate Deputy Attorney General
Acting United States Attorney

/s/
KYLE F. WALDINGER
Assistant United States Attorney

DATED: December 1, 2008

/s/
STEVEN F. GRUEL
Attorney for the defendant David Nosal

IT IS SO ORDERED.

DATED: 12/2, 2008

